

REMARKS/ARGUMENTS

The Examiner states that the inventions of Groups I and II are related as product and process of using under M.P.E.P. §806.05(h) and the product, as claimed, can be used in a materially different process, i.e., a process of cracking glow in the dark sticks.

However, it can be seen that the relationship of the claims of Group I and Claim 5 of Group II is that of combination-subcombination and the requirements for restriction between these claims is found in M.P.E.P. §806.05(c). Since two-way distinctness is required for restriction between the claims of Group I and Claim 5 of Group II, and such has not been shown by the Examiner, it is requested that Claim 5 be rejoined with the claims of Group I and examined in the present application.

Further, the Examiner has advanced no explanation as to what the process being asserted as a materially different process of using the product of Group I actually encompasses and no reasons are advanced by the Examiner as to how it would be employed with the product of the claims of Group I. Therefore, it is submitted that the requirements for restriction between Claims 6-8 of Group II and the claims of Group I have not been met. It is requested that Claims 6-8 of Group II be rejoined with the claims of Group I and examined in the present application.

Finally, the claims of Group III are seen to be related as product and process of using under M.P.E.P. §806.05(h). The Examiner has offered no arguments that the process for using the product, as claimed, can be practiced with another materially different product or the product, as claimed, can be used in a materially different process of using the product, as required by M.P.E.P. §806.05 (h). Therefore, it is submitted that the requirements for restriction between §806.05(h) the claims of Group I and Group III have not been met. It is requested that the claims of Group III be rejoined with the claims of Group I and examined in the present application.

Application No. 10/091,447  
Reply to Restriction Response of February 18, 2005.


Accordingly, for the reasons presented above, it is submitted that the Patent and Trademark Office has failed to meet the burden necessary to sustain the restriction requirement. Withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,

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